

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

LEONDRUS MCBRIDE, JR. §
VS. § CIVIL ACTION NO. 1:11cv81
UNITED STATES OF AMERICA §

MEMORANDUM ORDER OVERRULING MOVANT'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Movant Leondrus McBride, Jr., an inmate confined in the Federal Bureau of Prisons, proceeding *pro se*, brought this motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255.

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the motion be dismissed.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings, and all available evidence. Movant filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes movant's objections should be overruled. As movant has previously filed a motion to vacate sentence, he is barred from proceeding in this action without first receiving permission from the Fifth Circuit Court of Appeals, which he has not received. *See* 28 U.S.C. § 2255(h). Further, movant relies on information purportedly gained on March 1, 2002. This motion, however, was not filed until almost nine years later. Thus, even if the court had permission to entertain the motion, the motion is barred by limitations. Therefore, movant's objections are without merit.

O R D E R

Accordingly, movant's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED this the 28th day of April, 2012.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE